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In re application of: Bailey, Jean W. et al.

Serial No.: 07/648,080

Filed: 1/15/91

For: Batteries With Tester Label

 THE COMMISSIONER OF PATENTS  
Washington, D.C. 20231

Sir:

Transmitted herewith is an amendment in the above-identified application.

No additional fee is enclosed because this application was filed prior to October 25, 1965 (effective date of Public Law 89-83.)

No additional fee is required.

The fee has been calculated as shown below.

CLAIMS AS AMENDED						
(1)	(2) CLAIMS REMAINING AFTER AMENDMENT	(3)	(4) HIGHEST NO. PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEE
TOTAL CLAIMS	* 44	MINUS	** 45	x 0	x \$20	x 0
INDEP. CLAIMS	* 4	MINUS	4	x 0	x \$60	x 0
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT →					0	

\*If the entry in Column 2 is less than the entry in Column 4, write "0" in Column 5.

\*\*If the "Highest Number Previously Paid For" IN THIS SPACE is less than 10, write "10" in this space.

A check in the amount of \$ \_\_\_\_\_ is attached.

Charge \$ \_\_\_\_\_ to Deposit Account No. \_\_\_\_\_ . A duplicate copy of this sheet is enclosed.

Please charge any additional fees or credit overpayment to Deposit Account No. 18-0125 . A duplicate copy of this sheet is enclosed.

 January 14, 1992  
Date

 Robert W. Welsh  
Attorney of Record

Robert W. Welsh, Reg. No. 31,687

Art Unit 1104

Applicant's election with traverse of s 1-44 are in Paper No. 5 is acknowledged. The traversal is on the ground(s) that "in searching either class, the other class will necessarily be searched". This is not found persuasive because searches are ancillary to the requirement for restriction. Sole condition is distinctness and it has been satisfied by the examiner.

The requirement is still deemed proper and is therefore made FINAL.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1-44 are rejected under 35 U.S.C. § 103 as being unpatentable over Hanakura et al in view of Burroughs, Nishino, Garfein et al., and Kiernan et al.

Hanakura et al teach a battery tester comprised of a tester circuit and a flexible contact end portions which can be brought

Art Unit 1104

in contact with the two terminals of the battery. Patentees teach various modifications regarding the arrangement of insulator layers, tester circuit and the indicating material as well as a thermochromic layer as the thermally sensitive material. Claims appear to distinguish over Hanakura et al by reciting tester apparatus attached to the battery and the thermally sensitive material being a liquid crystal material.

Nishino relates to battery with an indicator apparatus attached thereto while Burroughs teaches the use of a liquid crystal material as the thermally sensitive material. Use of the above well known expedients in Hanakura would be obvious to one having ordinary skill in the art because nothing more is involved than mere substitution of one well known thermally sensitive material for another. Garfein et al teach electric field gradient regarding electricity measurement devices. Kurosawa teaches the sensitive material in the form of ink. Kiernan et al teach integral tester means:

This application contains claim 45 drawn to an invention non-elected with traverse in Paper No. 5. A complete response to the final rejection must include cancellation of non-elected claims or other appropriate action (37 C.F.R. § 1.144) M.P.E.P. § 821.01.

ASkapars:vr  
March 19, 1992  
March 27, 1992

*Anthony Skapars*  
ANTHONY SKAPARS  
PRIMARY PATENT EXAMINER  
ART UNIT 114

Art. Unit 1104

Applicant's election with traverse of s 1-44 are in Paper No. 5 is acknowledged. The traversal is on the ground(s) that "in searching either class, the other class will necessarily be searched". This is not found persuasive because searches are ancillary to the requirement for restriction. Sole condition is distinctness and it has been satisfied by the examiner.

The requirement is still deemed proper and is therefore made FINAL.

[REDACTED]

This application contains claim 45 drawn to an invention non-elected with traverse in Paper No. 5. A complete response to the final rejection must include cancellation of non-elected claims or other appropriate action (37 C.F.R. § 1.144) M.P.E.P. § 801.01.

Skaparsiv  
March 19, 1992  
March 27, 1992

*Anthony Skapars*  
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ART UNIT 114